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Counsel for Defendant THOMAS

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

IT IS HEREBY STIPULATED AND AGREED, by and between the parties acting through their respective counsel, that:

20 1. The Court has indicated that it is making its own motion for a modification of the
21 defendant's sentence pursuant to 18 U.S.C. § 3582(c)(2).

22 2. Defendant's original guideline calculation was as follows:

23 Total Offense Level: 29

24 Criminal History Category: III

25 Guideline Range: 108-135

26 3. Defendant was sentenced to 108 months imprisonment on August 31, 2004.

1 4. Defendant's current projected release date is August 31, 2009.

2 5. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. §

3 3582(c), USSG § 1B1.10(c), and Amendment 706 of the United States Sentencing Commission

4 Guidelines Manual.

5 6. Defendant's revised guideline calculation is as follows:

6 Total Offense Level: 27

7 Criminal History Category: III

8 Guideline Range: 87-108

9 7. The parties have no reason to dispute the Reduction of Sentence Report submitted to the

10 Court by the probation office.

11 8. Based upon the foregoing, the parties hereby stipulate that a sentence of 94 months is

12 appropriate in this matter.

13 9. The parties further stipulate that all other aspects of the original judgment order including

14 the length of term of supervised release, all conditions of supervision, fines, restitution,

15 and special assessment remain as previously imposed.

16 10. Defendant stipulates that he waives and does not request a hearing in this matter pursuant

17 to Fed. R. Crim. P. 43, 18 U.S.C § 3582(c)(2); *United States v. Booker*, 543 U.S. 220

18 (2005) and *Kimbrough v. United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472

19 F.3d 1167 (9th Cir. 2007).

20 11. Defendant waives his right to appeal the district court's sentence.

21 12. Accordingly, the parties agree and stipulate that an amended judgement may be entered

22 by the Court in accordance with this stipulation pursuant to 18 U.S.C. § 3582(c) and

23 USSG § 1B1.10(c), Amendment 706 of the *United States Sentencing Commission*

24 *Guidelines Manual*.

25

26 IT IS SO STIPULATED:

1 /S/

2 Date: May 13, 2008

3 Rebecca Sullivan Silbert
4 Counsel for Charles Thomas

5 /S/

6 Date: May 13, 2008

7 Erika Frick
8 Assistant United States Attorney

9
10 I hereby attest that I have on file all holograph signatures for any signatures indicated by a
11 "conformed" signature (/S/) within this e-filed document.

12
13
14
15 **ORDER**

16 Based on the above stipulation, the Court hereby ORDERS the following:

17 1. The Court is making its own motion for a modification of the defendant's sentence
18 pursuant to 18 U.S.C. § 3582(c)(2);

19 2. **The original Judgment in the above-captioned case is AMENDED to impose a term
of imprisonment of 94 months.** All other aspects of the original judgment, including the
length of term of supervised release, all conditions of supervision, fines, restitution, and
special assessment remain as previously imposed.

20 3. Defendant's original guideline calculation was as follows:
21 Total Offense Level: 29
22 Criminal History Category: III
23 Guideline Range: 108-135
24 Sentence Imposed: 108 months

25 4. Defendant is eligible for a modification of his sentence pursuant to 18 U.S.C. §
26 3582(c), USSG § 1B1.10(c), and Amendment 706 of the United States Sentencing Commission
Guidelines Manual;

1 5. Defendant's revised guideline calculation is as follows:

2 Total Offense Level: 27

3 Criminal History Category: III

4 Guideline Range: 87-108

5 6. Defendant has waived his right to a hearing in this matter pursuant to Fed. R. Crim. P. 43,

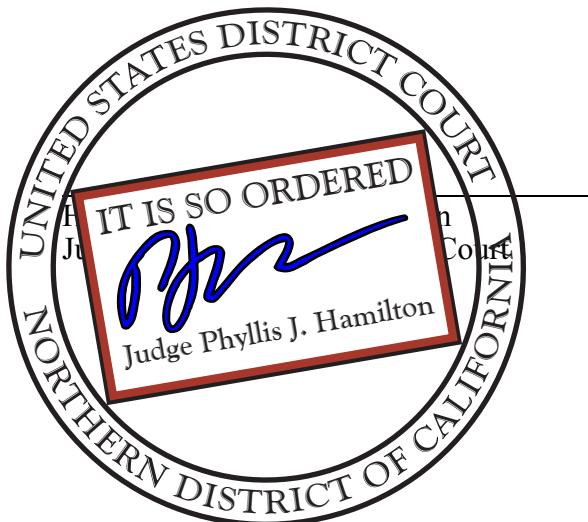
6 18 U.S.C § 3582(c)(2); *United States v. Booker*, 543 U.S. 220 (2005) and *Kimbrough v.*

7 *United States*, 128 S.Ct. 558 (2007); *United States v. Hicks*, 472 F.3d 1167 (9th Cir.

8 2007).

9 7. Defendant has waived his right to appeal the sentence imposed by this Order.

10 12 Date: 5/15/08



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